
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Tanaka et al.

Attorney Docket No.: MES1P094

Application No.: 10/569,783

Examiner: McCalister, William M.

Filed: February 24, 2006

Group: 3753

Title: FLOW CONTROLLER AND ITS
REGULATION METHOD

Confirmation No.: 6013

CERTIFICATE OF EFS-WEB TRANSMISSION

I hereby certify that this correspondence is being transmitted electronically through EFS-WEB to the Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450 on September 29, 2008.

Signed: _____ /Michelle Pascual/
Michelle Pascual

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Restriction Requirement dated August 29, 2008, Applicant provisionally elects, **with** traverse, species 1 (the species of Figures 1 and 7) to prosecute in the above-identified patent application. As suggested by the Examiner in the restriction requirement, it is respectfully submitted that claims 1-9 and 12-20 are all generic with respect to the restricted subject matter.

Although it is agreed that the restricted claims recite patentably distinct subject matter, it is respectfully submitted that the restriction is inappropriate because it is believed that it would not be unduly burdensome to simultaneously search the subject matter of the restricted species. In the restriction requirement it is asserted that the subject matter of patent claim 7 does not make a contribution over the prior art - referencing U.S. patent No. 6,752,166. Although this position is respectfully traversed – it is respectfully submitted that the issue of the patentability of claim 7 alone is not dispositive of whether restriction is proper.

If any fees are due in connection with the filing of this Response to Restriction Requirement, the Commissioner is hereby authorized to charge such fees to Deposit Account 50-4481 (Order No.MES1P094).

Respectfully submitted,
BEYER LAW GROUP LLP

/Steve D Beyer/
Steve D Beyer
Registration No. 31,234

P.O. Box 1687
Cupertino, CA 95015-1687
408-255-8001